

REMARKS

The Office examined claims 1-11 and rejected same. With this paper, the claims are unchanged.

Objection to the claims

At section 1 of the Office action, claim 1 is objected to for an informality, for which this paper provides correction.

Rejections under 35 USC §103

At section 3 of the Office action, claims 1-11 are rejected under 35 USC §103 as being unpatentable over Kwong et al. (US 5,578,848) in view of Osten (US 2003/0193061).

Claim 1 recites a semiconductor capacitor in which, between a capacitor dielectric including praseodymium oxide and at least a first semiconductor layer including silicon, is a first thin intermediate layer serving as a diffusion barrier for oxygen. The Office asserts that Kwong discloses such a semiconductor capacitor (presumably in Fig. 1, but the Office does not indicate where in Kwong there is such disclosure), except for including the praseodymium in the oxide in the dielectric, and relies on Osten for such a teaching (citing page 5, claim 8).

All of the rejections rely on Osten as applied to claim 1.

Osten not prior art under 35 USC §103

Applicant notes that Osten is not prior art under 35 USC section 103. Per 35 USC section 103 (c) (1), subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, is not to preclude patentability under 35 USC section 103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same

person. Although the Office action does not indicate under what subsection of 35 USC 102 Osten is asserted to qualify as prior art, by virtue of its publication date being after the date of priority claimed for the instant application (priority being claimed here to German Patent Application No. 102 18 799.1 filed on April 23, 2002), it is assumed here that the Office is not citing Osten under subsection (a) of section 102, but instead under either (e), (f), or (g). Applicant hereby declares that the subject matter relied on in Osten and the instant application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, namely IHP GmbH-Innovations for High Performance Microelectronics. (This statement is provided in accord with the MPEP at 706.02(1)(2)(II), "EVIDENCE REQUIRED TO ESTABLISH COMMON OWNERSHIP.") A copy of the assignment for the instant application (and the cover sheet for recordation of same), which was provided with the application as filed but which has yet to be recorded, is provided herewith.

Accordingly, applicant respectfully requests that the rejections under 35 USC §103 be withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited.

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Date

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